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781551N25A - SH-AD-32A (2/72)

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

A Tradition of Service

DATE: August 23, 2007

OFFICE CORRESPONDENCE FILE NO. SH2170359

FROM: JOHNNY G. JURADO, COMMANDER
LEADERSHIP AND TRAINING DIVISION

TO: JOHN M. WITT, CAPTAIN
PALMDALE STATION

SUBJECT: **EXECUTIVE FORCE REVIEW COMMITTEE FINDINGS AND RECOMMENDATIONS HIT SHOOTING**

The purpose of this memo is to notify you of the review committee's findings and recommendations concerning the use of force incident which occurred on April 25, 2006.

The Committee met on August 23, 2007, and consisted of me and Commanders Kenneth J. Brazile (FOR II), and Arthur Ng (FOR I). The Committee determined the use of force by [redacted] #[redacted] Deputy Joseph Fender #[redacted], Deputy [redacted] #[redacted], and Deputy Raymundo Wilson #[redacted] was within Department policy.

Please advise all personnel of this finding.

JGJ:MOT:mt

761551N25A - SH-AD-32A (2/72)

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

A Tradition of Service

DATE: August 9, 2007

OFFICE CORRESPONDENCE

FILE NO. SH2170359

FROM: JOHNNY G. JURADO, COMMANDER
LEADERSHIP AND TRAINING DIVISION

TO: KARYN MANNIS, CAPTAIN
INTERNAL AFFAIRS BUREAU

SUBJECT: **EXECUTIVE FORCE REVIEW COMMITTEE DISPOSITION:**
[redacted], #[redacted]
DEPUTY JOSEPH FENDER, #[redacted]
DEPUTY [redacted], #[redacted]
DEPUTY RAYMUNDO WILSON, #[redacted]
PALMDALE STATION

On April 25, 2006, at approximately 2232 hours, Deputies [redacted] and Joseph Fender were assigned a call of a "spousal assault, now / 417" in the unincorporated area of Lake Elizabeth. [redacted] Deputy Raymundo Wilson, Deputy Michael Baker, and Deputy Arrica Arceneaux assigned themselves as assisting units.

The units met approximately one block away from the suspect's residence to form a tactical plan. Deputy Fender was assigned the ARWEN, Deputy Wilson the shield, Deputies Arceneaux and Baker the AR-15, and Deputy [redacted] was the designated shooter. While personnel were still formulating the plan the call was updated with information that the victim was now outside of the residence with a phone, hiding in some bushes.

Deputies Arceneaux and Baker went to their position with the AR-15 and the tactical team responded to the location to recover the victim, [redacted] As they approached the residence, desk personnel again updated the call that the victim had returned into the residence. The tactical team continued to approach the residence to get a better view of the location, and attempt to contact [redacted] to instruct her to exit the residence again. The deputies saw [redacted] on the phone in the house, and, via relay through desk personnel, asked her to open a set of French doors in order to exit the house. [redacted] was unable to open the deadbolt on the doors, and instructed the deputies to use the front door. She relayed to dispatch that Suspect Guenther had calmed down and was now sleeping upstairs. She also told dispatch that she was unable to open the front door because it was jammed shut by clothing underneath the door.

The team deployed to the front door to push the door open so [redacted] could exit the

residence. Since the door would not open, Deputy Fender kicked the door open. As the door swung open Suspect Guenther was standing inside to the right, and pointed a gun at him. Deputy Fender fired one round at Suspect Guenther then retreated from the entryway. [redacted] and Deputy Wilson saw Suspect Guenther with his arm extended towards the front door holding a silver handgun. Both fired their weapons as they retreated. Deputy [redacted] looked saw Suspect Guenther through a window standing and pointing the pistol. He fired eight rounds as he retreated.

When the deputies retreated back in the driveway they repositioned themselves behind parked vehicles. Suspect Guenther again pointed his handgun at the deputies. [redacted] and Deputy Fender both fired at him again. Suspect Guenther fell to the floor and moaned, "you got me."

Suspect Guenther was handcuffed and Deputy Fender applied direct pressure to his gunshot wound. Suspect Guenther was subsequently transported to Antelope Valley Hospital, where he was treated for a "through and through" gunshot wound to his left arm.

On August 9, 2007, the Executive Force Review Committee convened and conducted a review regarding the facts of this case. The applicable policies that were evaluated by the committee were: MMP §§ 3-01/025.00, Use of Force; 3-01/025.30, Use of Firearms and Deadly Force; 3-01/025.10, Unreasonable Force; and 3-01/050.10, Performance to Standards.

Concerning:

MMP § 3-01/025.00, Use of Force, MMP § 3-01/025.30, Use of Firearms and Deadly Force, and MMP § 3-01/025.10, Unreasonable Force, the Committee determined that the force used by [redacted] was reasonable and necessary and in compliance with Department policy.

MMP § 3-01/025.00, Use of Force, MMP § 3-01/025.30, Use of Firearms and Deadly Force, and MMP § 3-01/025.10, Unreasonable Force, the Committee determined that the force used by Deputy Fender was reasonable and necessary and in compliance with Department policy.

MMP § 3-01/025.00, Use of Force, MMP § 3-01/025.30, Use of Firearms and Deadly Force, and MMP § 3-01/025.10, Unreasonable Force, the Committee determined that the force used by Deputy [redacted] was reasonable and necessary and in compliance with Department policy.

MMP § 3-01/025.00, Use of Force, MMP § 3-01/025.30, Use of Firearms and Deadly Force, and MMP § 3-01/025.10, Unreasonable Force, the Committee determined that the force used by Deputy Wilson was reasonable and necessary and in compliance with Department policy.

MMP § 3-01/050.10, Performance to Standards, the Committee determined that the tactics employed by all personnel in this incident were within Department Policy.

Johnny G. Jurado, Commander

JGJ:MOT:mt



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

STEVE COOLEY • District Attorney
JOHN K. SPILLANE • Chief Deputy District Attorney
CURTIS A. HAZELL • Assistant District Attorney

JANICE L. MAURIZI • Director

January 31, 2007

Captain Raymond Peavy
Homicide Bureau
Los Angeles County Sheriff's Department
5747 Rickenbacker Road
Commerce, California 90040

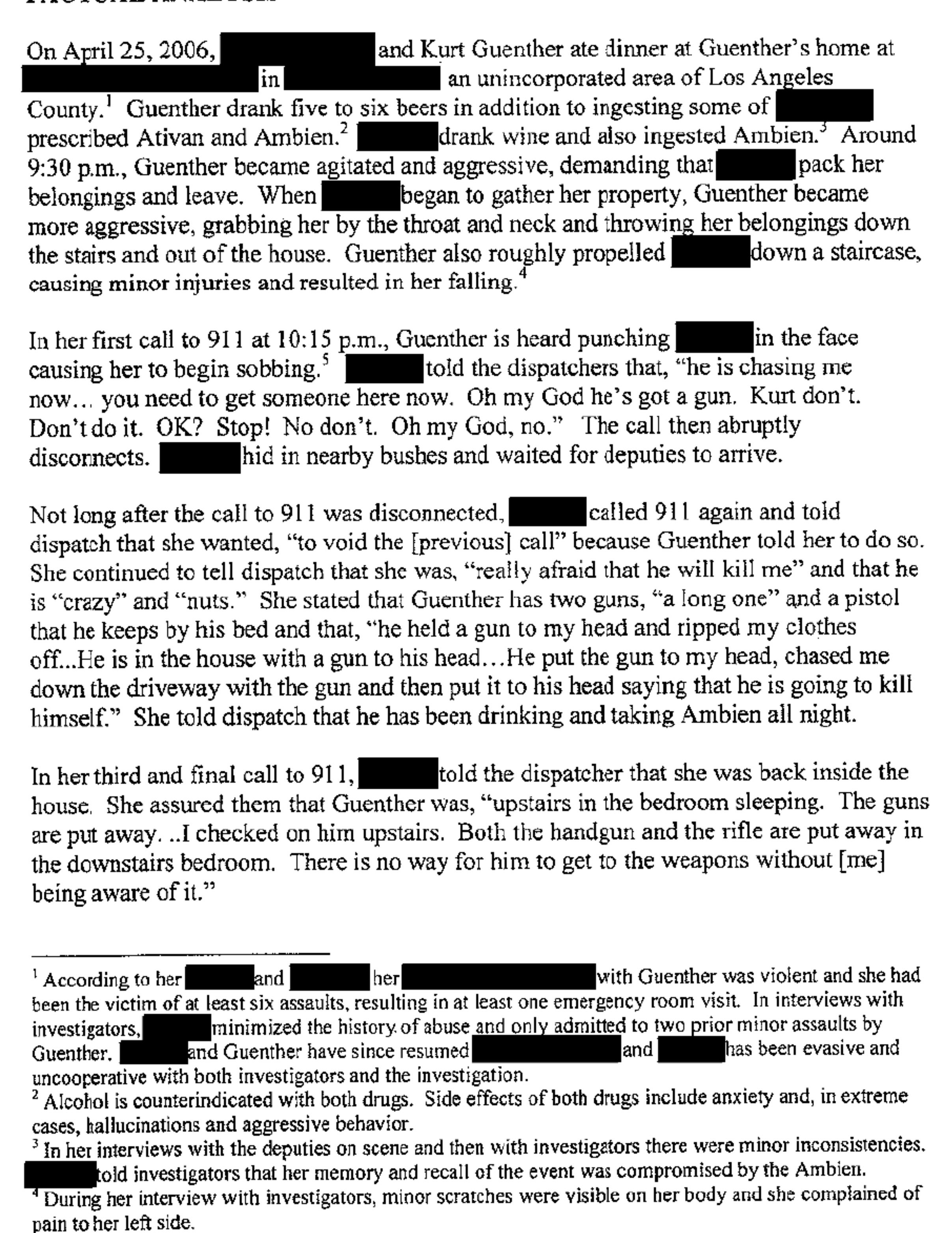
Re: J.S.I.D. File No: 06-0246
L.A.S.D. File No: 006-07426-2657-055

Dear Captain Peavy,

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the April 25, 2006, non-fatal shooting of Kurt Guenther by Los Angeles County Sheriff's Deputies Joseph Fender, [redacted], Ray Wilson and [redacted]. We have concluded that the deputies acted lawfully in self-defense and defense of others.

The following analysis is based on reports submitted to this office on August 22, 2006, by Detective Rich Tomlin of the Los Angeles County Sheriff's Department, Homicide Division. The District Attorney's Command Center was notified of this incident at 12:05 a.m. on April 25, 2006. The District Attorney Response Team, comprised of District Attorney Senior Investigator [redacted] and Deputy District Attorney Tal Kahana, was notified by the Command Center and responded immediately to the scene. They were given a briefing and a "walk-through" of the scene by investigators from the Los Angeles County Sheriff's Department (LASD). No compelled statements of any officers were reviewed or considered as part of our analysis.

Clara Shortridge Foltz Criminal Justice Center
210 West Temple Street
Los Angeles, CA 90012-3210
(213) 974-3888
WEBSITE: http://da.co.la.ca.us



FACTUAL ANALYSIS

On April 25, 2006, [redacted] and Kurt Guenther ate dinner at Guenther's home at [redacted] in [redacted] an unincorporated area of Los Angeles County.[1] Guenther drank five to six beers in addition to ingesting some of [redacted] prescribed Ativan and Ambien.[2] [redacted] drank wine and also ingested Ambien.[3] Around 9:30 p.m., Guenther became agitated and aggressive, demanding that [redacted] pack her belongings and leave. When [redacted] began to gather her property, Guenther became more aggressive, grabbing her by the throat and neck and throwing her belongings down the stairs and out of the house. Guenther also roughly propelled [redacted] down a staircase, causing minor injuries and resulted in her falling.[4]

In her first call to 911 at 10:15 p.m., Guenther is heard punching [redacted] in the face causing her to begin sobbing.[5] [redacted] told the dispatchers that, "he is chasing me now... you need to get someone here now. Oh my God he's got a gun. Kurt don't. Don't do it. OK? Stop! No don't. Oh my God, no." The call then abruptly disconnects. [redacted] hid in nearby bushes and waited for deputies to arrive.

Not long after the call to 911 was disconnected, [redacted] called 911 again and told dispatch that she wanted, "to void the [previous] call" because Guenther told her to do so. She continued to tell dispatch that she was, "really afraid that he will kill me" and that he is "crazy" and "nuts." She stated that Guenther has two guns, "a long one" and a pistol that he keeps by his bed and that, "he held a gun to my head and ripped my clothes off...He is in the house with a gun to his head...He put the gun to my head, chased me down the driveway with the gun and then put it to his head saying that he is going to kill himself." She told dispatch that he has been drinking and taking Ambien all night.

In her third and final call to 911, [redacted] told the dispatcher that she was back inside the house. She assured them that Guenther was, "upstairs in the bedroom sleeping. The guns are put away. ..I checked on him upstairs. Both the handgun and the rifle are put away in the downstairs bedroom. There is no way for him to get to the weapons without [me] being aware of it."

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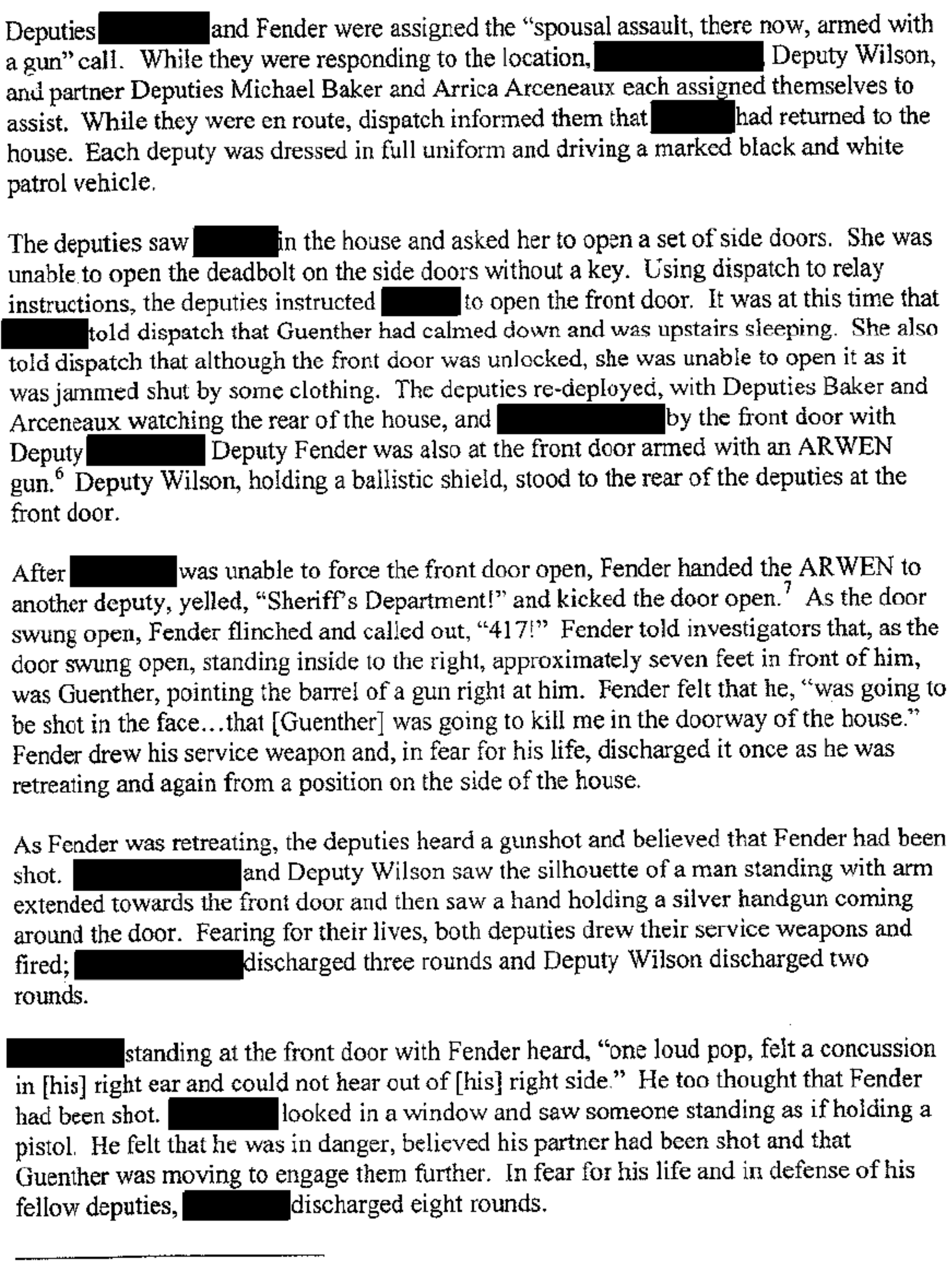
[1] According to her [redacted] and [redacted] her [redacted] with Guenther was violent and she had been the victim of at least six assaults, resulting in at least one emergency room visit. In interviews with investigators, [redacted] minimized the history of abuse and only admitted to two prior minor assaults by Guenther. [redacted] and Guenther have since resumed [redacted] and [redacted] has been evasive and uncooperative with both investigators and the investigation.

[2] Alcohol is counterindicated with both drugs. Side effects of both drugs include anxiety and, in extreme cases, hallucinations and aggressive behavior.

[3] In her interviews with the deputies on scene and then with investigators there were minor inconsistencies. [redacted] told investigators that her memory and recall of the event was compromised by the Ambien.

[4] During her interview with investigators, minor scratches were visible on her body and she complained of pain to her left side.

[5] [redacted] never mentioned his assault in all of her interviews with deputies and investigators. At the time she told dispatch that the punch hurt.



Deputies [redacted] and Fender were assigned the "spousal assault, there now, armed with a gun" call. While they were responding to the location, [redacted] Deputy Wilson, and partner Deputies Michael Baker and Arrica Arceneaux each assigned themselves to assist. While they were en route, dispatch informed them that [redacted] had returned to the house. Each deputy was dressed in full uniform and driving a marked black and white patrol vehicle.

The deputies saw [redacted] in the house and asked her to open a set of side doors. She was unable to open the deadbolt on the side doors without a key. Using dispatch to relay instructions, the deputies instructed [redacted] to open the front door. It was at this time that [redacted] told dispatch that Guenther had calmed down and was upstairs sleeping. She also told dispatch that although the front door was unlocked, she was unable to open it as it was jammed shut by some clothing. The deputies re-deployed, with Deputies Baker and Arceneaux watching the rear of the house, and [redacted] by the front door with Deputy [redacted] Deputy Fender was also at the front door armed with an ARWEN gun.[6] Deputy Wilson, holding a ballistic shield, stood to the rear of the deputies at the front door.

After [redacted] was unable to force the front door open, Fender handed the ARWEN to another deputy, yelled, "Sheriff's Department!" and kicked the door open.[7] As the door swung open, Fender flinched and called out, "417!" Fender told investigators that, as the door swung open, standing inside to the right, approximately seven feet in front of him, was Guenther, pointing the barrel of a gun right at him. Fender felt that he, "was going to be shot in the face…that [Guenther] was going to kill me in the doorway of the house." Fender drew his service weapon and, in fear for his life, discharged it once as he was retreating and again from a position on the side of the house.

As Fender was retreating, the deputies heard a gunshot and believed that Fender had been shot. [redacted] and Deputy Wilson saw the silhouette of a man standing with arm extended towards the front door and then saw a hand holding a silver handgun coming around the door. Fearing for their lives, both deputies drew their service weapons and fired; [redacted] discharged three rounds and Deputy Wilson discharged two rounds.

[redacted] standing at the front door with Fender heard, "one loud pop, felt a concussion in [his] right ear and could not hear out of [his] right side." He too thought that Fender had been shot. [redacted] looked in a window and saw someone standing as if holding a pistol. He felt that he was in danger, believed his partner had been shot and that Guenther was moving to engage them further. In fear for his life and in defense of his fellow deputies, [redacted] discharged eight rounds.

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[6] ARWEN is an acronym for Anti Riot Weapon Enfield. It is a firearm that fires rubber bullets and is classified as a "less than lethal weapon."
[7] It was apparent to all deputies that the door had been dead bolted shut and was not simply jammed as [redacted] had reported.

Guenther finally dropped to a seated position stating, "You got me, you got me." Guenther continued making statements asking the deputies to kill him and to do him a favor by shooting him. As Deputy Fender was handcuffing him, Guenther alternated between apologizing for the situation and stating, "I almost got you, I almost got you good. I wasn't going to shoot you, but I could have had you good." He was transported to the hospital with a gunshot wound to his arm. He was discharged within hours to the custody of the Sheriff's Department for booking. Although Guenther admits to drinking beer and taking un-prescribed narcotics prior to the incident, there is no record of any toxicology tests that could confirm or disprove that fact.[8]

Guenther waived his rights and agreed to speak with investigators that night. He told investigators that, after arguing with [redacted] he went to sleep only to be awakened by loud banging at his front door. He retrieved his Ruger pistol from under his bed and went to the front door.[9] Guenther told investigators that, as he approached that front door, it burst open and he was shot. He adamantly denied pointing the gun at the deputies or firing it. He also told investigators that he did not remember certain things and that when he takes Ambien he, "get[s] like semi-conscious." Investigators recovered Guenther's Ruger a few feet from where he sat. The gun was fully loaded and had not been fired.

Guenther pled guilty to one misdemeanor count of violating Penal Code §243(e)(1), battery in a dating relationship, as a result of his actions in this incident.[10]

LEGAL ANALYSIS

Penal Code § 835 states that, "Any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to effect the arrest, to prevent escape or overcome resistance."

The United States Supreme Court has held that in evaluating the use of force by police officers, "reasonableness" is to be judged from the perspective of a reasonable officer at the scene, taking into account circumstances surrounding the use of force, including whether the suspect poses an immediate threat to the safety of the officers or others and whether he is actively resisting arrest. In determining the reasonableness of an officer's actions, allowances must be made for the fact that police officers are often forced to make split-second judgments, in circumstances that are tense, uncertain and rapidly evolving, about the amount of force that is necessary in a particular situation. Graham v. Connor (1989) 490 U.S. 386, 396-398.

[8] Los Angeles County Medical Center would not release any toxicology reports without a court order.
[9] The Ruger was registered to Kurt Guenther.
[10] 6AV04079. He was sentenced to five days of jail, five days of community service and three years of probation in addition to standard fines.

An officer may reasonably use deadly force when he confronts an armed suspect in close proximity whose actions indicate an intent to attack; in those circumstances, the court cannot ask officers to hold fire in order to ascertain whether the suspect will, in fact, injure or murder the officer. Martinez v. County of Los Angeles (1996) 47 Cal.App.4th 334.

CONCLUSION

The evidence reviewed in this investigation indicates that LASD Sheriff's deputies responded to a domestic violence call involving Kurt Guenther and his [redacted] After the deputies' arrival, Guenther pointed a loaded handgun at Deputy Fender. Believing that they were in imminent danger of being shot, Deputies Fender, [redacted] Wilson and [redacted] discharged their firearms at Guenther. We find that the deputies response with deadly force was in lawful self-defense and defense of others. We are, therefore, closing our file and will take no further action in this matter.

Very truly yours,

STEVE COOLEY
District Attorney

By

TAL KAHANA
Deputy District Attorney
(213) 974-5089

c: [redacted] # [redacted]
Deputy Joseph Fender, # [redacted]
Deputy [redacted] # [redacted]
Deputy Ray Wilson, # [redacted]

Los Angeles County Sheriff's Department
Officer Involved Shooting

Report Date: 4/25/06	Bureau/Station/Facility: Palmdale	Admin. Invest.? ☐	Hit? ☒

Incident Information

URN: 006-07426-2657-055	Date: 4/25/06 Time: 2300 hr.
City or Station: Palmdale	Nature of Incident: Deputies from Palmdale Station responded to location regarding a domestic violence call. They were subsequently confronted by the suspect, Kurt Guenther, who was armed with a handgun. As Guenther pointed his weapon at deputies, the deputies fired at Guenther, striking him in the left arm.
Location: [redacted] Coolcrest Drive, Lake Elizabeth	

Location Type (*circle one or more*): Backyard, Beach, Business, Freeway, Industrial, Park, Parking Lot, (Residence) [circled], Rural, School, Street, Other: ____

Lighting (*circle only one*): (Darkness) [circled], Daylight, Other, Street Lights

Weather (*circle only one*): Clear, Cloudy, Fog, (Rain) [circled]

Distance: 1-12 feet

Total # of Shots Fired by Deputy: 17

Total # of Shots Fired by Suspect: 1

Incident Type (*circle one or more*): Accidental, (Armed Person) [circled], Fleeing Suspect, Foot Pursuit, Gun Take Away, Moving Vehicle, Sniper/Ambush, Startle, Struggle Involved, Traffic Stop, Unarmed Person, Unintentional, Vehicle Pursuit, Warrant Service, Warning Shot, Other: ____

Initiated by (*circle only one*): Arrest Warrant, (Call) [circled], Observation, One Person Unit, Other, Search Warrant, Two Person Unit

Prior Activity (*circle only one*): Detective, Inmate Transport, Other, (Routine Patrol) [circled]

Aero Unit? ☐ Canine Unit? ☐

Employee Witnesses

Employee #	Last Name	First Name	M.I.	ShiftTime (*circle only one*)	ShiftType (*circle only one*)
[redacted]	Baker	Michael		(EM) PM Day	(Regular) Overtime Off Duty
[redacted]	Arceneaux	Arrica		(EM) PM Day	(Regular) Overtime Off Duty
				EM PM Day	Regular Overtime Off Duty

Non-Employee Witnesses

Last Name	First Name	M.I.	Street Address	City	Zip Code	Work Ph	Home Ph
[redacted]	[redacted]		[redacted]	[redacted]	[redacted]		

Supervisors

Employee #	Last Name	First Name	M.I	(*circle one or more*)
[redacted]	[redacted]	[redacted]		(On Duty) (Present during shooting) Witness to shooting (Involved in shooting)
				On Duty, Present during shooting, Witness to shooting, Involved in shooting

Watch Sergeant

Employee #	Last Name	First Name	M.I.
[redacted]	Miklos	David	

Watch Commander

Employee #	Last Name	First Name	M.I.
[redacted]	Ford	Don	

PSTD Use Only

SH # ____

Officer Involved Shooting

URN: 006-07426-2657-055

Rollout Information

Arrival Date	Arrival Time	Date Submitted	Date of Recommendation
4/26/06		6/8/07	

Employee #	Last Name	First Name	M.I
[redacted]	Anderson	Clay	
[redacted]	Flamm	Steven	
[redacted]	Jensen	Curtis	

Shooting / Force Information

Method

(AW) Arwen
(BC) Baton:(Control)
(BI) Baton:(Impact)
(BF) Bodily Fluids
(CN) Canine
(CR) Carotid Restraint
(CH) Choke Hold
(CT) Control Holds:(Control Techniques)
(TT) Control Holds:(Team Takedown)
(TD) Control Holds:(Takedown)
(CE) Chemical
(OC) Chemical Agents (OC Spray)
(TG) Chemical Agents (Tear Gas)
(EX) Explosives
(FH) Firearm (Handgun)
(FR) Firearm (Rifle)
(FS) Firearm (Shotgun)
(FO) Firearm (Other)
(FB) Flashbang
(FL) Flashlight
(OE) Other Weapon: Edged
(OV) Other Weapon: Vehicle
(OB) Other Weapon: Blunt Object
(OO) Other Weapon: Other
(PK) Personal Weapon: Feet/Leg: (Kick)
(PS) Personal Weapon: Feet/Leg: (Sweep)
(PH) Personal Weapon (Hand/Arm)
(PP) Personal Weapon (Push)
(PO) Personal Weapon (Other)
(RS) Resistance
(CN) Restraint Device (Capture Net)
(RH) Restraint Device (Handcuffs)
(HB) Restraint Device:Hobble (Legs Only)
(TP) Restraint Device:Hobble (TARP)
(RE) Restraint Device: REACT Belt
(SP) Sap
(SH) Shield
(SG) 37mm Stinger
(SB) Sting Ball
(ST) Stun Bag
(TR) Taser
(UC) Uncooperative

Type of Injury

(AB) Abrasion
(BR) Bruise
(BU) Burn
(CP) Complaint of Pain
(CO) Concussion
(DH) Death
(DI) Dislocation
(DB) Dog Bite
(FR) Fractures
(GS) Gunshot
(HB) Human Bite
(LC) Lacerations
(ND) Nerve Damage
(OD) Organ Damage
(PA) Paralysis
(PW) Puncture Wound
(SD) Soft Tissue Damage
(ST) Sprain/Twists
(UN) Unconscious
(RM) Refused Med Treatment
(NN) NONE

Body Part Injured

(AD) Abdomen
(AK) Ankle
(AR) Arm
(BK) Back
(BT) Buttocks
(CH) Chest
(EL) Elbow
(FA) Face
(FE) Feet
(FI) Fingers
(GE) Genitals
(GR) Groin
(HD) Hand
(HE) Head
(HI) Hip
(IN) Internal
(KN) Knees
(LE) Leg
(NK) Neck
(SH) Shoulder
(WR) Wrist

Brand

(AK) AK-47
(BN) Benelli
(BR) Beretta
(BW) Browning
(CH) Charter Arms
(CO) Colt
(DA) Davis Industries
(GL) Glock
(HA) Harrington & Richardson
(HI) Hi Standard
(HK) H & K
(IT) Ithica
(IV) Iver Johnson
(JE) Jennings
(LO) Lorcin
(LU) Luger
(MA) Marlin
(MO) Mossberg
(NC) NCI aka SKS
(NA) North American
(NO) Norinco
(RA) Raven
(RM) Remington
(RG) RG
(RI) RGI
(RO) Rossi
(SW) Smith & Wesson
(SR) Sturm Ruger
(ST) Sterling
(TA) Taurus
(WE) Weatherby
(WN) Winchester
(US) US Government
(YY) Handmade (Inmate)
(XX) Homemade (Non-Inmate)
(ZZ) Other Brand

Caliber

(9) 9 mm
(10) 10 mm
(12) 12 guage
(20) 20 guage
(21) .22-250
(22) .22 caliber
(23) .223 caliber
(24) .243 caliber
(25) .25 caliber
(30) .308 caliber
(35) .357 caliber
(36) 30-60 caliber
(38) .38 caliber
(40) .40 caliber
(41) .410 guage
(44) .44 caliber
(45) .45 caliber
(50) 50 mm
(SL) Slug
(WW) Other caliber

FORCE APPLIED *(one code per block)*

Used By (E# or S#)	Used Against (E# or S#)	Method (Code)	Brand (Code)	Caliber (Code)	Authorized Weapon? (Y/N)	Authorized Ammunition? (Y/N)	Type of Injury (Code)	Body Part (Code)
E#1	S#1	FH	BR	9	Y	Y	NN	
E#2	S#1	FH	BR	9	Y	Y	NN	
E3#	S#1	FH	BR	9	Y	Y	NN	
E#4	S#1	FH	BR	9	Y	Y	NN	
S#1	E#1	FH	SR	9			GS	AR

See Front Side

Officer Involved Shooting
Involved Employee Information

URN: 006-07426-2657-055

Involved Employee

E 1

Employee # [redacted] | Last Name [redacted] | First Name [redacted] | M.I.

Sex: M | Race: W | Rank [redacted] | Unit Assignment: [redacted] | Work Assignment (Unit #, Module, etc.): [redacted]

ShiftTime (*circle only one*): [redacted] | ShiftType (*circle only one*): [redacted] | Intoxication/Drug Usage? ☐ | Substance Used:

Hospital Admission? ☐ | Hospital Name: | Coroner Case? ☐ | Coroner Case # | Interviewed? ☐

Hrs of sleep prior to shooting: 7 | Duty Time (hrs): [redacted] | Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, (Uniform w/ Vest) | Other Factors:

Age: [redacted] | Height: 5' 06" | Weight: 180

Range Qualification Date: [redacted] | PPC Qualification Date: [redacted] | Laser Training Date: [redacted]

Certified with Weapon Used? [redacted] | Patrol Certification? [redacted] | Certification Unit: [redacted] | Prior Shootings? [redacted] | Number of Prior Shootings: [redacted]

Field Training Officer Emp # | Last Name | First Name | M.I.

Field Training Officer Emp # | Last Name | First Name | M.I.

E 2

Employee # [redacted] | Last Name [redacted] | First Name [redacted] | M.I.

Sex: M | Race: W | Rank: Deputy Sheriff | Unit Assignment: [redacted] | Work Assignment (Unit #, Module, etc.): [redacted]

ShiftTime (*circle only one*): EM [redacted] Day | ShiftType (*circle only one*): [redacted] | Intoxication/Drug Usage? ☐ | Substance Used:

Hospital Admission? ☐ | Hospital Name: | Coroner Case? ☐ | Coroner Case # | Interviewed? ☐

Hrs of sleep prior to shooting: 8 | Duty Time (hrs): [redacted] | Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, (Uniform w/ Vest) | Other Factors:

Age: [redacted] | Height: 5' 09" | Weight: 155

Range Qualification Date: [redacted] | PPC Qualification Date: [redacted] | Laser Training Date: [redacted]

Certified with Weapon Used? [redacted] | Patrol Certification? [redacted] | Certification Unit: [redacted] | Prior Shootings? [redacted] | Number of Prior Shootings: [redacted]

Field Training Officer Emp # [redacted] | Last Name [redacted] | First Name [redacted] | M.I.

Field Training Officer Emp # [redacted] | Last Name [redacted] | First Name [redacted] | M.I.

E 3

Employee # [redacted] | Last Name: Fender | First Name: Joseph | M.I.

Sex: M | Race: W | Rank: Deputy Sheriff | Unit Assignment: Palmdale | Work Assignment (Unit #, Module, etc.): [redacted]

ShiftTime (*circle only one*): EM (PM) Day | ShiftType (*circle only one*): (Regular) Overtime Off Duty | Intoxication/Drug Usage? ☐ | Substance Used:

Hospital Admission? ☐ | Hospital Name: | Coroner Case? ☐ | Coroner Case # | Interviewed? ☐

Hrs of sleep prior to shooting: 7 | Duty Time (hrs): [redacted] | Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, (Uniform w/ Vest) | Other Factors:

Age: [redacted] | Height: 6' 0" | Weight: 195

Range Qualification Date: [redacted] | PPC Qualification Date: [redacted] | Laser Training Date: [redacted]

Certified with Weapon Used? [redacted] | Patrol Certification? [redacted] | Certification Unit: [redacted] | Prior Shootings? [redacted] | Number of Prior Shootings: [redacted]

Field Training Officer Emp # [redacted] | Last Name [redacted] | First Name [redacted] | M.I.

Field Training Officer Emp # [redacted] | Last Name [redacted] | First Name [redacted] | M.I.

Officer Involved Shooting
Involved Employee Information

URN: 006-07426-2657-055

Involved Employee

E 4

Employee # [redacted]	Last Name Wilson	First Name Raymundo	M.I.
Sex: M Race: B	Rank Deputy Sheriff	Unit Assignment: Palmdale	Work Assignment (Unit #, Module, etc.):
ShiftTime (*circle only one*): EM (PM) Day	ShiftType (*circle only one*): (Regular) Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name: [redacted]	Coroner Case? ☐	Coroner Case # / Interviewed? ☐
Hrs of sleep prior to shooting: 8-10	Duty Time (hrs):	Clothing (*circle only one*): Plain Clothes no Vest / Raid Jacket w/ Vest / Plain Clothes w/ Vest / Uniform no Vest / Raid Jacket no Vest / (Uniform w/ Vest)	Other Factors:
Age: [redacted] Height: 5' 10"	Weight: 180		
Range Qualification Date: [redacted]	PPC Qualification Date: [redacted]	Laser Training Date: [redacted]	
Certified with Weapon Used? [redacted]	Patrol Certification? [redacted]	Certification Unit: [redacted]	Prior Shootings? [redacted] Number of Prior Shootings: [redacted]
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I.
Field Training Officer Emp #	Last Name [redacted]	First Name [redacted]	M.I.

E___

Employee #	Last Name	First Name	M.I.
Sex: Race:	Rank	Unit Assignment:	Work Assignment (Unit #, Module, etc.):
ShiftTime (*circle only one*): EM PM Day	ShiftType (*circle only one*): Regular Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case # / Interviewed? ☐
Hrs of sleep prior to shooting:	Duty Time (hrs):	Clothing (*circle only one*): Plain Clothes no Vest / Raid Jacket w/ Vest / Plain Clothes w/ Vest / Uniform no Vest / Raid Jacket no Vest / Uniform w/ Vest	Other Factors:
Age: Height:	Weight:		
Range Qualification Date:	PPC Qualification Date:	Laser Training Date:	
Certified with Weapon Used? ☐	Patrol Certification? ☐	Certification Unit:	Prior Shootings? ☐ Number of Prior Shootings:
Field Training Officer Emp #	Last Name	First Name	M.I.
Field Training Officer Emp #	Last Name	First Name	M.I.

E___

Employee #	Last Name	First Name	M.I.
Sex: Race:	Rank	Unit Assignment:	Work Assignment (Unit #, Module, etc.):
ShiftTime (*circle only one*): EM PM Day	ShiftType (*circle only one*): Regular Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case # / Interviewed? ☐
Hrs of sleep prior to shooting:	Duty Time (hrs):	Clothing (*circle only one*): Plain Clothes no Vest / Raid Jacket w/ Vest / Plain Clothes w/ Vest / Uniform no Vest / Raid Jacket no Vest / Uniform w/ Vest	Other Factors:
Age: Height:	Weight:		
Range Qualification Date:	PPC Qualification Date:	Laser Training Date:	
Certified with Weapon Used? ☐	Patrol Certification? ☐	Certification Unit:	Prior Shootings? ☐ Number of Prior Shootings:
Field Training Officer Emp #	Last Name	First Name	M.I.
Field Training Officer Emp #	Last Name	First Name	M.I.

COUNTY OF LOS ANGELES
SHERIFF'S DEPARTMENT

SHOOTING EVALUATION

UNIT: Palmdale Station
DATE: April 25, 2006
TIME: 2305 hours
LOCATION: [redacted] Coolcrest Drive, Lake Elizabeth
URN#: 006-07426-2657-055
IAB#: SH2170359

On April 25, 2006, the Internal Affairs Bureau's Force and Shooting Team responded to the intersection of Sandrock Drive and Coolcrest Drive in the unincorporated area of Los Angeles (Lake Elizabeth) regarding an officer involved hit shooting. The team consisted of Sergeant Clay Anderson, Sergeant Steve Flamm, and Lieutenant Curtis Jensen. Detectives Richard Tomlin and Paul Fournier of the Sheriff's Department Homicide Bureau were the detectives assigned to handle the criminal aspect of the incident. Michael Gennaco, Office of Independent Review, also responded to the scene of the incident.

When the team arrived at the location, one suspect was in custody, and there was an active command post and containment of the location. Investigators learned that the series of events which occurred culminated into an officer-involved hit shooting involving Deputies Joseph Fender, [redacted] and Raymond Wilson, and [redacted] All personnel were uniformed officers working patrol.

This investigation is based on statements by the involved deputies and witnesses, and information obtained during the criminal investigation, along with various written documentation.

OVERVIEW:
On April 25, 2006, at approximately 2232 hours, Deputies [redacted] and Joseph Fender were assigned a call of a "spousal assault, now" in the unincorporated area of Lake Elizabeth. The call additionally related that the suspect was armed with a gun. While enroute to the location, an approximate 15-20 minute ETA (estimated time of arrival) Code 3, [redacted] Deputy Raymundo Wilson, Deputy Michael Baker and Deputy Arrica Arceneaux assigned themselves as assisting units.

The units met at a parking lot on Lake Elizabeth Road, approximately one block away from the suspect's residence, in order to coordinate their efforts and form a tactical plan. The plan incorporated the use "less lethal" weapons (an Arwen and a ballistic shield), along with an AR-15 as a contingency. Deputy Fender was assigned the Arwen, Deputy Ray Wilson the shield, and Deputy Arrica Arceneaux and Deputy Michael Baker (located on high ground) the AR-15, along with Deputy [redacted] designated as the "lethal shooter." The tactical team, which was comprised of [redacted] and Deputies Fender, [redacted] and Wilson, was to contact the suspect via the PA (public Address system) or telephone, and instruct him to exit the location. However, while personnel were still formulating the plan, the call was updated with information that the victim was now outside of the residence with a phone, hiding in some bushes.

Deputies Arceneaux and Baker headed towards a position of advantage with the AR15, while the tactical team responded to the location in an effort to recover the victim, [redacted] As they approached the residence, Palmdale Station desk personnel again updated the call, stating that [redacted] had returned into the residence. The tactical team continued to approach the residence in order to "get a better view" of the location, and attempt to re-contact [redacted] and instruct her to exit the residence again. The deputies then saw [redacted] on the phone in the house, and, via relay through desk personnel, asked her to open a set of French doors (located close to the street) in order to exit the house. However, [redacted] was unable to open the deadbolt on the doors, and instructed the deputies to use the front door (approximately 20 feet away). She relayed to dispatch that the suspect, Kurt Guenther, had calmed down and was now sleeping upstairs. Using desk personnel to relay information, she also told dispatch that, although the front door was unlocked, she was unable to open it as it was jammed shut by some clothing underneath the door.

As desk personnel maintained communication with [redacted] on the phone, the deputies re-deployed to the front door, with Deputies Baker and Arceneaux watching the rear of the house. Initially, Deputy [redacted] was to push the door open, giving way for [redacted] to walk out of the residence; however, after several failed attempts to force the door open, Deputy Fender took over. Deputy Fender handed the ARWEN to another deputy, yelled, "Sheriffs Department!" and kicked the door open. As the door swung open, Deputy Fender was confronted by Guenther, who was standing inside to the right, approximately seven feet in front of him, pointing a gun at him. Deputy Fender suddenly flinched and called out, "417!" He withdrew his weapon from its holster and fired one round into the residence towards Guenther. Deputy Fender then retreated back and away from the entryway.

Believing that Deputy Fender had been shot, [redacted] and Deputy Wilson saw the silhouette of a man standing with arm extended towards the front door; they then saw a hand holding a silver handgun coming around the door. Fearing for their lives, both deputies drew their service weapons and fired as they retreated back; [redacted] discharged two rounds and Deputy Wilson discharged three rounds. Deputy [redacted] who was also in the doorway with Deputy Fender, heard "one loud pop." [redacted] looked in a window and saw someone standing and holding a pistol. Feeling that he was in danger and believing that the suspect was moving to engage them further, [redacted] withdrew his weapon and fired eight rounds as he retreated backwards.

As the deputies retreated back in the driveway, they repositioned themselves behind parked vehicles. Once again seeing the suspect's arm extended out with a weapon, [redacted] fired two mores. Deputy Fender, who had now re-positioned himself near a window away the front door's entryway, peered through the window adjacent to his location; he too saw the suspect extending his arm outwards as if to fire towards the deputies in the driveway and fired one additional round from his vantage point. The suspect, Kurt Guenther, fell to the floor, hit by gunfire, moaning, "you got me." Victim [redacted] stepped out from the kitchen area and deputies entered the residence. Dep. Wilson kicked the handgun away from the side of Guenther, and handcuffed him to the nearby staircase bannister. Deputy Fender then approached the suspect and rendered first aid to him by applying direct pressure to his gunshot wound.

Guenther was subsequently transported to Antelope Valley Hospital, where he was treated for a "through and through" gunshot wound to his left arm.

> **IAB Note:** The handgun was recovered and identified as a Ruger, P89, 9mm, stainless semi-automatic pistol. The weapon was fully loaded with one live round in the chamber and seven live rounds in the magazine.

The subsequent Homicide investigation revealed that earlier that evening [redacted] and Kurt Guenther ate dinner at Guenther's home at [redacted] Reportedly, Guenther drank five to six beers in addition to ingesting some of [redacted] prescribed Ativan and Ambien. [redacted] drank wine and also ingested some Ambien. Later in the evening, Guenther became agitated and aggressive, demanding that [redacted] pack her belongings and leave. When [redacted] began to gather her property, Guenther became more aggressive, grabbing her by the throat and throwing her belongings down the stairs and out of the house. Subsequently, Guenther forcefully propelled [redacted] down a staircase, causing her minor injuries and initiating her call to Palmdale Sheriff's Station.

> **IAB Note:** During Ms. [redacted] interview with Homicide investigators, they noted visible minor scratches on her body. Additionally, she complained of pain to her left side.

IAB Note: The following information was obtained via www.drugs.com: **Ambien** is a sedative, also called a hypnotic. **Ativan** is in a group of drugs called benzodiazepines, and is used to treat anxiety disorders. Alcohol is counter-indicated with both drugs. Side effects of both drugs include anxiety and, in some cases, hallucinations and aggressive behavior. Additionally, Ativan may can cause side effects that may impair your thinking or reactions. For additional information obtained via Drugs.com regarding these drugs, refer to printouts in the Miscellaneous Documents section of this report.

In her first call to the "911" emergency line at 2215 hrs, Guenther is heard punching [redacted] in the face, causing her to begin sobbing. [redacted] told 911 personnel, "he is chasing me now... you need to get someone here now. Oh my God he's got a gun. Kurt don't. Don't do it. OK? Stop! No don't. Oh my God, no." The call then abruptly disconnects and [redacted] hides in nearby bushes and waits for deputies to arrive.

Not long after the call to 911 was disconnected, [redacted] called 911 again and told dispatch personnel that she wanted "to void the [previous] call," because Guenther told her to do so. She continued to tell personnel that she was "really afraid that he will kill me" and that he is "crazy" and "nuts." She stated that Guenther has two guns, "a long one" and a pistol that he keeps by his bed and that, "he held a gun to my head and ripped my clothes off...He is in the house with a gun to his head.. .He put the gun to my head, chased me down the driveway with the gun and then put it to his head saying that he is going to kill himself." She told dispatch that he has been drinking and taking Ambien all night.

In her third and final call to 911, [redacted] told the dispatcher that she was back inside the house. She assured them that Guenther was "upstairs in the bedroom sleeping. The guns are put away. ..I checked on him upstairs. Both the handgun and the rifle are put away in the downstairs bedroom. There is no way for him to get to the weapons without [me] being aware of it."

IAB Note: [redacted] 911 calls to Palmdale Station desk personnel were audio recorded. Those conversations were transferred to Compact Disk (CD) and submitted with this investigation as **Exhibit B**.

IAB Note: According to [redacted] and [redacted] her [redacted] with Guenther is violent and she has been the victim of at least six assaults, resulting in at least one emergency room visit. In interviews with Homicide investigators, [redacted] minimized the history of abuse and only admitted to two prior minor assaults by Guenther. [redacted] and Guenther have since resumed their [redacted] and [redacted] has been evasive and uncooperative with Homicide investigators and the investigation.

INVOLVED PERSONNEL:

[redacted]
[redacted], Employee #[redacted]
Field Operations Region I
[redacted]

Fender, Joseph
Deputy Sheriff, Employee #[redacted]
Field Operations Region I
Palmdale Sheriff's Station

[redacted]
Deputy Sheriff, Employee #[redacted]
Field Operations Region I
[redacted]

Wilson, Raymundo
Deputy Sheriff, Employee #[redacted]
Field Operations Region I
Palmdale Sheriff's Station

EMPLOYEE WORK HISTORY:

[redacted]

Date of Employment:	[redacted]
Date assigned to [redacted]:	[redacted]
Prior Shooting Incident(s):	[redacted]
Prior Founded Force Incidents:	[redacted]

Deputy Joseph Fender

Date of Employment:	04-10-2000
Date assigned to Palmdale:	03-13-2005
Date completed patrol training:	[redacted]
Prior Shooting Incident(s):	[redacted]
Prior Founded Force Incidents:	[redacted]



Deputy [redacted]

Date of Employment:	[redacted]
Date assigned to [redacted]	[redacted]
Date completed patrol training:	[redacted]
Prior Shooting Incident(s):	[redacted]
Prior Founded Force Incidents:	[redacted]



Deputy Raymundo Wilson

Date of Employment:	07-02-2001
Date assigned to Palmdale Patrol:	01-22-06
Date completed patrol training:	[redacted]
Prior Shooting Incident(s):	[redacted]
Prior Founded Force Incidents:	[redacted]

SUSPECT(S):

Kurt Guenther, MW/07-08-54, 6'-00", 205 lbs., blue/brown
[redacted]

Booking # 9018914 C.I.I. [redacted] Main # [redacted]

CRIMINAL HISTORY:

A check of the Consolidated Criminal History Reporting System (CCHRS) revealed no criminal background for Kurt Guenther.

IAB Note: Refer to **Exhibit A, page 79** for Kurt Guenther's criminal history report.

NON-DEPARTMENT WITNESSES:

[redacted] FW/ [redacted]

DEPARTMENT WITNESS(ES):

Deputy Michael Baker, #[redacted] Palmdale Station
Deputy Arrica Arceneaux, #[redacted] Palmdale Station

INJURIES

No Department members were injured during this incident.

Suspect Kurt Guenther sustained a "through and through" gunshot wound to his left arm. He was transported to Antelope Valley Hospital, where he was treated for his wound; Guenther subsequently received an "OK to Book" by attending physician Dr. Loren Rauch.

IAB Note: At the time of the incident, no medical record request/release was obtained from Mr. Guenther by Homicide investigators.

PHYSICAL EVIDENCE:

Refer to the Homicide Book, **Exhibit A, pages 13-26, page 52, and pages 55-63**, for Physical Evidence gathered at the crime scene(s) and processed by the Crime Lab. The Crime Lab report is located on **pages 64-67** of the same exhibit. For further information regarding placement and/or description, refer to photographs of the crime scene and evidence in the *Photographs* section of this report and/or the crime scene sketches (**Exhibit A, pages 53 & 54**).

Refer to the Property Damage section for additional comments regarding bullet strikes.

INVESTIGATOR OBSERVATIONS:

The physical evidence at the shooting scene (positions of shell casings and expended rounds, position of the vehicles, and the evidence recovered at the scene) appeared to be consistent with the deputies' and witnesses' versions of the event.

WEAPONS USED BY DEPUTY PERSONNEL:

[redacted]

Department issued service firearm: Beretta, Model 92F, 9MM, #BER[redacted]Z. [redacted] weapon contained one (1) live Luger 9MM round in the chamber and eleven (11) Luger 9MM rounds in the gun magazine. Prior to the shooting, [redacted] stated that his weapon was loaded with one live round in the chamber and fifteen live rounds in his gun's magazine. Twelve rounds remained in the gun, which would account for **four rounds fired during the shooting incident.** For additional information, refer to the Crime Lab's examination of [redacted] weapon (**Exhibit A, pages 65-67**).

Deputy Joseph Fender

Department issued service firearm: Beretta, Model 92F, 9MM, #BER[redacted] Deputy Fender's weapon contained one (1) live Luger 9MM round in the chamber and thirteen (13) Luger 9MM rounds in the gun magazine. Prior to the shooting, Deputy Fender stated that his weapon was loaded with one live round in the chamber and fifteen live rounds in his gun's magazine. Fourteen rounds remained in the gun, which would account for **two rounds fired during the shooting incident.** For additional information, refer to the Crime Lab's examination of [redacted] weapon (**Exhibit A, pages 65-67**).

Deputy [redacted]

Department issued service firearm: Beretta, Model 92F, 9MM, #BER[redacted] Deputy [redacted] weapon contained one (1) live Luger 9MM round in the chamber and seven (7) Luger 9MM rounds in the gun magazine. Prior to the shooting, Deputy [redacted] stated that his weapon was loaded with one live round in the chamber and fifteen live rounds in his gun's magazine. Nine rounds remained in the gun, which would account for **eight rounds fired during the shooting incident.** For additional information, refer to the Crime Lab's examination of [redacted] weapon (**Exhibit A, pages 65-67**).

Deputy Raymundo Wilson

Department issued service firearm: Beretta, Model 92F, 9MM, #BER[redacted] Deputy Wilson's weapon contained one (1) live Luger 9MM round in the chamber and twelve (12) Luger 9MM rounds in the gun magazine. Prior to the shooting, Deputy Wilson stated that his weapon was loaded with one live round in the chamber and fifteen live rounds in his gun's magazine. Thirteen rounds remained in the gun, which would account for **three rounds fired during the shooting incident.** For additional information, refer to the Crime Lab's examination of [redacted] weapon (**Exhibit A, pages 65-67**).

WEAPONS USED BY SUSPECT(S):

Suspect Kurt Guenther

Ruger, P89, 9mm, stainless semi-automatic pistol, Serial #[redacted]

The weapon was fully loaded with one live round in the chamber and seven live rounds in the magazine

IAB Note: For additional information, refer to the Crime Lab's examination of Suspect Guenther's weapon (**Exhibit A, page 64**).

CRIMINAL INVESTIGATOR and CHARGES FILED:

Investigator: Detective Richard Tomlin, Homicide Bureau

Court: Antelope Valley Superior Court

Charges Filed: Corporal Injury to Spouse/Cohabitant, 273.5 PC

PROPERTY DAMAGE:

The following property damage was identified and labeled consistent with the Crime Lab report (**Exhibit A, pages 60-62**). For an interior diagram of the residence, refer to the Crime Scene Diagram (**page 54 of Exhibit A**).

A One bullet hole in the kitchen bay window frame located on the south facing side of the residence. The bullet perforated the frame and ricocheted off of the underlying surface. The bullet traveled in a northeast direction and approximately parallel to the ground.

B One bullet hole in the south facing exterior siding of the residence. The bullet traveled in a northeast direction. Bullet recovery was not attempted.

C One bullet hole in the south entrance door. The bullet passed through the door and entered the residence. The bullet traveled generally northbound and parallel to the ground.

D One bullet hole in the south entrance door. The bullet entered the door but did not exit. The bullet traveled in a northwest direction and approximately parallel to the ground or slightly downwards. A fired bullet was recovered from inside the door and assigned item 36. Examination of this hole revealed that the door was open when this shot was fired.

E One bullet hole in the south entrance door. The bullet passed through the door and entered the residence. The bullet traveled generally northbound and parallel to the ground.

F One bullet hole in the south entrance door. The bullet passed through the door, passed through the entryway rug, ricocheted off of the entryway floor, and entered the bottom stair, see hole "V" below. The bullet traveled in a northeast direction and downwards.

G One bullet hole in the south entrance door. The bullet passed through the door and entered the residence. The bullet traveled in a northwest direction and approximately parallel to the ground or slightly downwards. Examination of this hole revealed that the door was open when this shot was fired.

H One bullet hole in the south entrance door. The bullet passed through the door and entered the residence. The bullet traveled in a northwest direction and slightly downwards. Examination of this hole revealed that the door was open when this shot was fired.

I One bullet hole in the south entrance door. The bullet entered the door but did not exit. The bullet traveled in a northwest direction and approximately parallel to the ground. No bullet was located.

J One bullet hole in the south entrance door. The bullet passed through the door and entered the residence. The bullet traveled in a northwest direction and approximately parallel to the ground.

K One bullet hole in the south facing exterior wall, adjacent to the south entrance door. The bullet entered the stucco, but did not enter the residence. The bullet traveled generally northbound. Bullet recovery was not attempted.

L - P Five bullet holes in the window east of the south entrance door. The bullets passed through the window and window curtain and entered the residence. The bullets traveled generally northbound.

Q One bullet hole in the living room ceiling. The bullet traveled in a northwest direction. Bullet recovery was not attempted.

R One bullet hole in the south facing panel of a CD cabinet located along the east living room wall. The bullet entered the CD cabinet and became lodged in the north facing panel. The bullet traveled generally northbound. A fired bullet was recovered from the panel and assigned item 27.

S One bullet impact to the south facing rear edge of a speaker, located along the east living room wall. The bullet impacted the speaker, ricocheted, and entered the east living room wall (S-1). The bullet traveled generally northbound. Bullet recovery was not attempted.

T One bullet hole in the south face of the lower stair banister support. It could not be determined if the bullet entered the post or ricocheted. The bullet traveled generally northbound. Bullet recovery was not attempted.

U One bullet hole in the south face of the first stair from the bottom. The bullet passed through the stair, traveled under the staircase, and entered the closet of the downstairs bedroom. The bullet traveled generally northbound. Four fired bullets were recovered from within the closet and assigned items 32 through 35.

V One bullet hole in the south face of the first stair from the bottom. The bullet passed through the stair, traveled under the staircase, and entered the closet of the downstairs bedroom. The bullet traveled generally northbound. Four fired bullets were recovered from within the closet and assigned items 32 through 35.

W One bullet hole in the south face of the fifth stair from the bottom. The bullet passed through the stair, traveled under the staircase, and entered the closet of the downstairs bedroom. The bullet traveled generally northbound. Four fired bullets were recovered from within the closet and assigned items 32 through 35.

X One bullet hole in the south face of the tenth stair from the bottom. The bullet traveled generally northbound. It could not be determined whether this bullet passed through the stair.

Y One bullet hole in the west edge of the bottom stair. The bullet passed through the stair, traveled under the staircase, and entered the closet of the downstairs bedroom. The bullet traveled generally northbound. Four fired bullets were recovered from within the closet and assigned items 32 through 35.

INVOLVED PERSONNEL:

[redacted]

On April 26, 2006, Detectives Paul Fournier and Richard Tomlin of Homicide Bureau interviewed [redacted] at Palmdale Sheriff's Station. [redacted] was accompanied by his ALADS representative, Attorney Mitchell S. Kander. [redacted] was re-interview by Internal Affairs investigators, Sergeants Clay Anderson and Stefanie Fredericks, on May 4, 2007. The following is a summary of the interviews, both of which were audio recorded:

On the date of the incident, [redacted] said that he was in briefing inside Palmdale Station when a "spousal assault just occurred, man with a gun" call was dispatched. He said that he immediately left the station and drove in the direction of the location, along with three other units. [redacted] said that he had all of the responding units meet him at a parking lot on Lake Elizabeth Road, approximately one block away from the suspect's residence, in order to coordinate their efforts and form a tactical plan. He related that the plan was just to have the victim exit the location, but they also incorporated the use "less lethal" weapons (an Arwen and a ballistic shield), along with an AR-15, as a contingency. Sergeant Thompson said Deputy Fender was assigned the Arwen, Deputy Ray Wilson the shield, and Deputy Arrica Arceneaux and Deputy Michael Baker (located on high ground) the AR-15, along with Deputy [redacted] designated as the "lethal shooter." While still formulating the plan, the call was updated with information that the victim was now outside of the residence with a phone, hiding in some bushes.

As they began their approach on foot towards the suspect's house to secure and/or rescue the victim, the call was updated again, stating that the victim had walked back inside the residence. [redacted] said they stopped just short of the residence to re-formulate a plan. He said that they then continued towards the house on foot, stopping just short of the location to get a "visual" and "audio" look/observation of the location. [redacted] related

that because the initial call was of a violent nature (i.e., domestic violence, man with gun) they were concerned for the victim's safety. He said that when he walked towards a front porch area, which faced the street, he saw the victim inside of the house on the telephone. [redacted] said that he advised the desk personnel via his radio to instruct the victim come outside of the house through the double doors at the porch.

[redacted] said he walked up to the double doors and could hear the victim trying to open it, but she could not unlock the upper dead bolt of the door as she did not have a key.

> **IAB Note:** The deadbolt is a "double cylinder" lock, which requires key to open from the inside or outside.

[redacted] said he and the deputies then changed their plan again, moving to "the only other door available," the front door. [redacted] related that Deputy Fender had the Arwen gun, Deputy Wilson was carrying the ballistic shield, and Deputy [redacted] was still the designated shooter. [redacted] said as they proceeded towards the front door, they advised the desk personnel to tell the victim to open the front door and contact them there. However, he stated the victim was unable to open up the door, telling the deputies that a sweater or blanket was wedged underneath it; she further advised them that the suspect was upstairs, sleeping.

[redacted] said he told Deputy [redacted] to "boot the door," but after several attempts [redacted] was unsuccessful in forcing the door open. [redacted] said as [redacted] attempted to open the door, he noticed that the door "bowed in" and did not appear to be restricted by the clothing underneath it. [redacted] then directed Deputy Fender, who is bigger in stature, to try and "boot" the door open. [redacted] said Fender handed him the Arwen and proceeded towards the door. As Deputy Fender kicked the door, it opened inward and to the right, [redacted] said Fender "looked scared," and he immediately heard one gunshot that he believed came from inside of the house. [redacted] said Fender, who was standing to his left, shouted "417!" (radio code for man with a gun), fired one or two shots from his weapon, then retreated backwards, down towards the driveway. [redacted] said that he dropped the Arwen and retreated back, along with Deputies [redacted] and Wilson, towards a vehicle which was parked in the driveway of the house. As he proceeded back, [redacted] said he saw a silhouette of the suspect next to the long opaque window to the right of the door. He then saw a hand and silver handgun coming around the door. Fearing for his life, and the safety of the other deputies and the victim, [redacted] said he fired 3-4 shots through the door towards the suspect. [redacted] estimated that he was approximately 12 feet away from the suspect at the time of the shooting.

[redacted] said after the shooting stopped, he saw the suspect lying on the ground inside of the house with the gun next to him. He related that the suspect was saying, "You got me, you got me, you got me!" [redacted] said the victim simply stood in the doorway motionless, as they instructed her to get out of the house. After several requests, she

finally came outside. Fearing that the suspect could still get to the gun, [redacted] said they made entry into the house, and handcuffed the suspect to the bannister. He stated that after the shooting Deputies Arceneaux and Baker responded to the residence, and paramedics were summoned.

[redacted] stated that shortly after the shooting, the suspect looked at Fender and stated, "You got me. You got me." As they continued to wait for paramedics, [redacted] said that the suspect's attitude changed, and he (the suspect) stated, "I could've got you. I would've had you." He related that in retrospect, he believed that the victim "set-up" the deputies into coming in and confronting the suspect. He said that despite the gunfire, the victim remained calmed throughout the incident, Additionally, she appeared non-compliant with instructions to exit the house.

IAB Note: For information regarding [redacted] statements during his interview with Homicide investigators, refer to their report, which is included in this investigation as **Exhibit A,** pages 37 & 38.

Deputy Joseph Fender

On April 26, 2006, Detectives Paul Fournier and Richard Tomlin of Homicide Bureau interviewed Deputy Joseph Fender at Palmdale Sheriff's Station. Deputy Fender was accompanied by his ALADS representative, Attorney Derald J. Brenneman. Deputy Fender was re-interview by Internal Affairs investigators, Sergeants Clay Anderson and Stefanie Fredericks, on May 4, 2007. The following is a summary of the interviews, both of which were audio recorded:

Deputy Fender said that on the evening of the shooting, he was working with his partner, Deputy [redacted], when they were assigned a call of a spousal assault. He related that the call originated in the Lake Elizabeth area, which was a 15 to 20 minute "eta" (estimated time of arrival) Code 3. He stated that while en route to the location, Deputy Ray Wilson and [redacted] "took an assist" to the call. Dep. Fender said that as they continued towards the location, the call was updated from the desk, stating that the suspect was armed with a gun and he held the gun to the victim's head. Dep. Fender said at some point, the desk personnel lost communication with the victim.

Deputy Fender said that he and his partner, along with assisting units, [redacted] Deputy Wilson, Deputy Baker and Deputy Arceneaux met around the corner from the location and made a tactical plan. He related that Baker and Arceneaux were positioned on "high ground" with an AR 15 and the remaining personnel formed a "tactical team," which was to contact the suspect, via the PA (public Address system) or telephone, and instruct him to exit the location. Dep. Fender said the desk then updated the call, relating that they had re-contacted the victim, who said that she had exited the location and was hiding in some bushes waiting for them.

Dep. Fender said that they had now changed plans, and would attempt to "recover" the victim and obtain further information. He said they proceeded to the location, near where the victim was supposed to be (Sandrock Drive and Coolcrest Drive), but they were unable to locate the victim. While relaying information with desk personnel, Dep. Fender said that the victim had returned to her residence. He said they attempted instruct the victim to leave the location again; however, she stated that she was unable to leave, relating that she could not open the door. Fender said that they left their vehicles parked around the corner of the location and approached the residence on foot. He related that he was armed with an Arwen, Wilson possessed a ballistic shield, and [redacted] and [redacted] were designated shooters (armed with their Department issued Berettas). Dep. Fender said that desk personnel then further updated the call, relating the suspect was upstairs and "passed out" from drinking.

Dep. Fender said that they then stopped and again discussed the situation, eventually electing to approach the location for fear of the victim's safety. He said that the plan was to attempt to retrieve the victim, while leaving the suspect "passed out" upstairs. Dep. Fender said they approached a set of "French doors" near the front of the street and instructed desk personnel to have the victim step outside. However, the victim said that she was unable to get out, because she was having problems with the locks. Dep. Fender said they spoke to the victim through the French doors, asking her the location of the suspect. Dep. Fender related that the victim appeared "distraught," stating that the suspect was still upstairs, passed out, "on the other side of the house." He said the victim then directed them to another door, located on the side of the house approximately 15 - 20 feet away; however, she again complained that she could not open that door, stating that there was clothing wedged underneath it.

Dep. Fender said that he and the other deputies proceeded towards that door. He said as he passed a window, he looked in and survieled the interior of the house. He said that he saw only the victim and they then proceeded towards the door. Dep. Fender said that the victim reiterated that she couldn't open the door, because something was "jammed" underneath it. At that time, [redacted] instructed [redacted] to force the door open. [redacted] attempted to force the front door open with his right shoulder; however, he was unsuccessful. After a couple of further failed attempts to push the door, [redacted] then tried to kick the door open. Dep. Fender said after 2 or 3 further attempts, [redacted] still was unable to force open the door. Dep. Fender related that the door appeared to be locked by a deadbolt.

Dep. Fender stated that because of his larger stature, he decided to try and kick the door open. He said he handed his Arwen weapon to Deputy [redacted] then instructed the victim to step back. He said he yelled, "Sheriffs Department," and kicked the front door. Dep. Fender said that as the door swung open, he saw the suspect standing approximately seven feet inside of the residence, just to the right of the doorway. He said the suspect was at the bottom of the stairs, approximately 6 - 7 feet away, and pointing a handgun at him. Fearing that the suspect was "going to shoot my face," Dep. Fender said he ducked,

yelled "417" (Police radio code for man with a gun), retrieved his firearm from its holster, and fired one or two rounds at the suspect. Dep. Fender said he simultaneously heard a "pop" noise, which he believed was the sound of the suspect shooting him. He then retreated outside and to the left of the front door.

Dep. Fender said he heard a barrage of gunfire, as he positioned himself to the left of the doorway, near the kitchen window. He said he looked through the window and saw the suspect still holding a handgun, which was pointed towards the deputies at the doorway. Dep. Fender said that he fired another round through the kitchen window at the suspect. Seconds later, Dep. Fender heard the suspect say, "You got me. I'm down. You got me." Dep. Fender said that he then repositioned himself near the front door, where he saw the suspect with three gunshot wounds (two in his arm and one in his leg).

Dep. Fender said that he and [redacted] entered the location, and he secured the suspect to a handrail using a set of handcuffs. He said that as he contacted the suspect, the suspect made various statements: "I want you guys to kill me. . . . Do me a favor, just end it I'm done anyway. . . . I just wanted to die, just let me die. . . ." Dep. Fender said that he removed the suspect's T-shirt, applied it to his wounds, and began administering first aid (direct pressure, monitoring, etc.).

Dep. Fender stated that when he asked the suspect his name, the suspect replied, "My name is Done. . . . I just want to die." Dep. Fender related that the suspect's demeanor appeared as if he were "Bi-polar." Fender related that the suspect was apologetic one minute, saying, "I'm sorry I didn't mean for you to have to shoot me," then confrontational, stating, "I could of had you, I almost got you didn't I?"

Dep. Fender stated that he felt the victim attempted to have them enter the house and confront the suspect. He explained that she was initially out of the house, then returned back in, even though she was in fear of the suspect. Dep. Fender also stated that during his contact with her through the French doors, she continually pleaded for them to enter the location. Dep. Fender further related that when he kicked the front door open, it appeared to him that the suspect was in a position such that he did not just come down stairs. Dep. Fender remarked that he believed that the suspect had been standing at the bottom of the stairs, out of the deputies' view, for a couple of minutes.

IAB Note: For further information regarding Deputy Fender's statements during his interview with Homicide investigators, refer to their report, which is included in this investigation as **Exhibit A,** pages 40 -42.

Deputy [redacted]

On April 26, 2006, Detectives Paul Fournier and Richard Tomlin of Homicide Bureau interviewed Deputy [redacted] at Palmdale Sheriff's Station. Deputy [redacted] was accompanied by his ALADS representative, Attorney Derald Brenneman. Deputy [redacted] was re-interview by Internal Affairs investigators, Sergeants Clay Anderson and Stefanie Fredericks, on May 4, 2007. The following is a summary of the interviews, both of which were audio recorded:

On the evening of the shooting, Dep. [redacted] said that he was assigned Unit # [redacted] and working with Deputy Joseph Fender. He said they were assigned a call of a "Domestic violence in progress." Dep. [redacted] said the call also related that the man was armed with a weapon, and he had pointed the gun at himself and the victim. Dep. [redacted] said they were in the Lake Hughes area at the time and advised his desk that they had an "extended roll."

Dep. [redacted] said that he and Fender met assisting units (Deputies Baker, Arceneaux, and Wilson, and [redacted], at Ranch Club Drive. He said once all the assisting units arrived, they formulated a tactical plan on how to handle the incident. He related that Baker and Arceneaux were to deploy the AR-15 and locate a "vantage point, Fender was equipped with the Arwen, Wilson equipped with the ballistic shield, and he was a designated shooter. Dep. [redacted] stated that as they formulated their plan, they received new information that the victim had gone outside and was now hiding in some bushes, awaiting their arrival. He said the plan now changed to him, Fender, [redacted] and Wilson approaching the house on foot and attempting to contact the victim, outside of the residence. However, he said that as they began their approach to the house, they received an update that the victim had gone back inside the home.

Dep. [redacted] said that when they arrived at the house, [redacted] entered a patio area of the home with two French doors leading to the residence. He said [redacted] relayed that he could see the victim in the interior of the residence, talking on the phone. Dep. [redacted] said [redacted] "motioned" to the victim, then tried to open the French doors. However, he was unsuccessful, because the doors were locked and the victim did not have a key. Dep. [redacted] said that the victim then told them to use the front door, further relating that the suspect was upstairs, sleeping. Dep. [redacted] said that they then went to the front door, remarking that he saw the victim talking on the telephone as he passed the kitchen window. He said the victim relayed that the suspect was still sleeping upstairs and relayed to desk personnel that a sweater under the door, preventing it from opening. Dep. [redacted] stated that they would need use force to open the door, then "get her out of there." He said after that point, the plan was to retreat and re-assess the situation.

Dep. [redacted] said that he hit the door three or four times with his shoulder, but was unable to get the door open. He relayed that as he hit the door he observed that it "bowed," and he believed that the door was locked. Dep. [redacted] stated that the victim told them that they would have to "do whatever you have to" to open the door. Dep.

[redacted] said that he attempted to kick the open three times, but again he failed to open the door. At that time, Fender stated that he (Fender) would kick the door, and [redacted] stepped to the right between the garage and a long opaque window to give Fender some room.

Deputy [redacted] said that Fender walked up to the door and kicked it once, forcing it open. He said that Fender suddenly flinched, yelled "417," then fell backwards. He said he heard "a loud pop" and felt a "concussion" to the right side of his face. [redacted] related that the way Fender fell backwards and the direction he heard the shot come from, he thought Fender had been shot. Dep. [redacted] looked through the opaque window next to the door and saw the silhouette of someone with his arm extended as if holding a pistol. He said that the silhouette moved past the window towards the front door. Believing that the suspect had already fired at them once, and was about to engage them again, for his and his partner's safety, he fired eight times at the suspect. While firing, Dep. [redacted] said that he backed up to take cover behind some vehicles, which were parked in the driveway. He said that he ultimately ended up behind a camper. Dep. [redacted] said that he heard someone (unknown) yell out that the suspect was shot and on the ground. He said that he repositioned himself and saw the suspect lying near the doorway. Dep. [redacted] stated that the victim then exited the house, and he escorted her back away from the scene.

IAB Note: For further information regarding Deputy [redacted] statements during his interview with Homicide investigators, refer to their report, which is included in this investigation as **Exhibit A,** pages 39 & 40.

Deputy Raymundo Wilson

On April 26, 2006, Detectives Paul Fournier and Richard Tomlin of Homicide Bureau interviewed Deputy Raymundo Wilson at Palmdale Sheriff's Station. Deputy Wilson was accompanied by his ALADS representative, Attorney Mitchell S. Kander. Deputy Wilson was re-interview by Internal Affairs investigators, Sergeants Clay Anderson and Stefanie Fredericks, on May 4, 2007. The following is a summary of the interviews, both of which were audio recorded:

Deputy Wilson said that he was patrolling in the city of Palmdale, when he heard a call of a spousal assault in the Lake Elizabeth area. He said that he added himself as an assisting unit to the call, and began to respond towards the location. While enroute, Dep. Wilson said that he happened by [redacted] who also appeared to be responding to the same call. Dep. Wilson said he followed [redacted] and drove to an area approximately a mile from the location. At that area, he, [redacted] Deputy Fender, Deputy Baker and Deputy Arceneaux formulated a plan as to how they would approach the location and handle to incident. Dep. Wilson said that by the time they arrived at the location and formulated the plan, the victim was out of the house. He said the plan was then to approach the residence and get the victim, who was going to meet them "down the street." Dep. Wilson said as they proceeded to the residence, there was an update to the call, stating that the

victim was now back inside the home and the suspect in his room sleeping. He also related that previous updates to the call relayed information that the suspect had pointed a gun to the victim's head, and the victim was afraid that the suspect was going to "hurt or kill her."

Dep. Wilson said he, Fender, [redacted] and [redacted] approached the home, as Baker and Arceneaux, armed with an AR15, took a containment spot at the rear of the location. Deputy Wilson related that he was equipped with a ballistic shield, and the plan was now that he was to use the shield to protect the victim as Fender and [redacted] escorted the victim out of the residence. Dep. Wilson said they attempted to get the victim out the residence by a west facing door of the residence (the French doors); however, the victim was unable to unable to unlock the door. He said the victim then directed them to a "side door." He said as they proceeded to the second door, desk personnel remained on the phone with the victim, who relayed that she was scared that the suspect "was going to hurt her." Deputy Wilson said they attempted to open the side door, but it too would not open because of a sweater underneath it. He said the victim then told them that they would have to force the door open. He stated that initially [redacted] attempted to open the door "with his shoulder," but he was unable to force it open. [redacted] then kicked the door, but was again unable to open the door.

Dep. Wilson said that Fender stepped up, announced, "Sheriff's Department," and kicked the door open. As this occurred, Dep. Wilson said he could see a silhouette of a person inside the home through the opaque glass window to the right of the doorway. This person had his arm extended from his body toward the door. Dep. Wilson said that Fender made a "violent flinch," pulled his weapon, and yelled "417," alerting other deputies that the suspect was armed with a gun. Dep. Wilson said that he then saw the barrel of a handgun protruding from behind the door and moving forward towards Fender. He said he heard a "big boom" from inside of the house, relating he believed that it was a gunshot. Believing Fender had been shot, Dep. Wilson said he fired two rounds from his Department issued Beretta through the opaque window at the silhouette. He then backed away from the door and took cover behind a vehicle, which was parked in the driveway.

Dep. Wilson said that as he watched the doorway, he saw the silhouette still holding the gun and begin to advance forward. Fearing that the suspect was going to re-engage them, Wilson said he then shot a second volley of gunfire, shooting two more rounds through the window. Dep. Wilson said the suspect fell to the floor, hit by gunfire, moaning, "you got me." He said that he saw the suspect's handgun lying next to the suspect, as he (suspect) laid on the floor. Wilson then gave commands to the suspect to stay still and to keep away from the gun. At that point, Dep. Wilson said the victim stepped out from the kitchen area. Once she was removed from the house, Dep. Wilson said they (Fender, [redacted] and [redacted] entered the house. Dep. Wilson said he kicked the handgun away from the suspect, and handcuffed the suspect to the staircase bannister. Deputy Fender then approached the suspect and rendered aid to him by applying direct pressure to his gunshot wounds.

Dep. Wilson related that he believed the victim gave them "bad information" regarding the location of the suspect. He related that just prior to the shooting, he saw the victim looking "directly across" from him, to a position that he could not see. He said that he now believes that at that time, she was watching the suspect. Dep. Wilson further explained that, based on his position, he would have seen the suspect walk down the stairs, but at no point during the incident did he observe the suspect, nor did the victim ever make any attempt to alert them of his presence.

IAB Note: For additional information regarding Deputy Wilson's statements made during his interview with Homicide investigators, refer to their report, which is included in this investigation as **Exhibit A,** page 42.

WITNESS STATEMENTS:

Deputy Michael Baker

On 04-26-2006, Homicide investigators Robert Kinney and Timothy Cain interviewed Deputy Michael Baker at a mobile command post, which was parked a short distance from the location of the incident. Also present during the interview were Internal Affairs investigators, Sergeant Clay Anderson and Sergeant Steven Flamm. The following is a summary based on Homicide investigators' interview, which was audio recorded, and their summary:

Deputy Baker told investigators on today's date (April 25, 2006) he was assigned to Unit 261 as a [redacted] working with his regular partner Deputy Arrica Arceneaux. He stated that the Early Morning Shift briefing was "busted" in order for units to assist in a spousal assault call, which had just occurred in the Elizabeth Lake area.

Dep. Baker related that the call was soon updated to a "man with a gun" call, and he and Arceneaux assigned themselves as an assisting unit to the call. He stated that Deputies Fender and [redacted] were assigned as the handling unit, Unit [redacted] and Deputy Wilson, Unit 262, and [redacted] were all assigned as assisting units. Deputy Baker said that Fender and [redacted] coordinated the other units to respond to Lake Elizabeth Road and Club Ranch Drive, prior to rolling in to the location. He said that when he and his partner arrived, three other units were already there, and they were the last unit to arrive. He said that at the location, they other units had already begun to discuss tactics, and because he AR-15 qualified, he was assigned to take a position of containment with the AR-15 rifle. He related that he was aware that an arrest team had been formed, and that an Arwen was also being deployed.

Dep. Baker said that he was assigned to respond to Algood Drive, where he was to take a "high position" behind the location (rear containment). He related that an aero unit was not overhead; however, there was communication with Aero personnel that were familiar with the area and helped them coordinate. Dep. Baker said they rolled in tandem, down

Sandrock Road, where he split from the group at Algood Drive. He said that he and Arceneaux then went to the rear of the third house from the corner, (he was not certain of the exact address of that location), where he advised the handling units, via the C-tac frequency, that they were in position. Dep. Baker further related that he had the units on Coolcrest Drive signal with their flashlights in order to confirm the correct location.

Dep. Baker said that he recalled hearing radio traffic about a door not being open. He also heard personnel assigned to the Palmdale Station desk say something about a sweater blocking the door. He related that at the time he was not certain if the victim was inside or outside of the location, but he was under the impression the victim was outside of the residence. Dep. Baker said he then heard a sound which sounded like three to four "kicks," as if someone was trying to kick a door open. He said he then heard something a lot louder, which he thought was a gunshot. Dep. Baker said a few seconds later, the sound was followed by eight to twenty shots.

Dep. Baker said that he told his partner that he had heard gunshots, then told her that they were going to climb a nearby 3 ½ feet high cinder block wall for better cover. He said that during this time, he also heard verbal commands to the effect of, "Let me see hands. Put the gun down!" He related that he thought the commands were given by [redacted] Dep. Baker said that after a short period elapsed, he asked the status of the activity on Coolcrest Drive and if the suspect was in custody. He said [redacted] responded, advising him that the location was secure and a suspect was in custody.

Dep. Baker said he and Arceneaux walked to the front of the location, where he saw that the suspect was handcuffed to the stair railing inside of the location. He said that he secured his AR-15, then assisted in clearing the house with Deputy Wilson. Deputy Baker said that Fire Department responded, and treated the suspect at the scene.

Deputy Baker said that he did an interview of the victim, Victim [redacted] in the back seat of a radio car. He related that the interview was videotaped.

> **IAB Note:** The taped interview with Victim [redacted] is submitted with the Homicide investigation.

Deputy Baker said that [redacted] stated that she was [redacted] to be [redacted] to the suspect, Kurt Guenther, and for the past year and a half has lived with him. [redacted] told him that she stayed with the suspect during the week (Monday through Friday) in Elizabeth Lake and the suspect stayed with her on the weekends (Saturday and Sunday) in Lancaster. She related that her belongings were inside of the location.

Dep. Baker stated that [redacted] told him that earlier in the evening she had been involved in a traffic collision, and had arrived home at 1730 hours. After arriving home she and Guenther had a barbecue and a glass of wine, and all was "fine." She related that during the evening, Guenther had taken some sleep medication, possibly Ambien. Dep. Baker

said according to [redacted] at about 2100 to 2130 hours, Guenther "snapped" and started yelling at her regarding her not being able to cope with the loss of her [redacted] She explained that her [redacted] had died about one year prior. Guenther then became angry and put his hand on her throat and threatened to choke her. [redacted] said that she told him to stop, and he told her to "get out." Dep. Baker said [redacted] stated that she went upstairs and packed her clothes to leave, but Guenther grabbed her bag and threw it downstairs. Guenther then grabbed her left arm and forced her down the stairs. She stated that the incident resulted in pain and scratch marks to her left wrist and pain to her left leg. [redacted] further remarked that Guenther ripped her shirt. Dep. Baker said that he noticed blood on the [redacted] left wrist, which she stated that Guenther had caused her arm to bleed as he pushed her down the stairs.

Dep. Baker said that [redacted] went on to tell him that after Guenther had forced her down the stairs, she took a glass of wine and went outside. [redacted] related that also grabbed the cordless telephone, because Guenther had smashed her cellular telephone during the incident. [redacted] said that she called Palmdale Sheriff's Station and told them "what had happened"; she further related that she knew that Guenther slept with a gun underneath his pillow, so she told them that he had a gun. However, as [redacted] was questioned by Dep. Baker, she denied having seen the weapon; she then changed her story, stating that Guenther pointed the gun at his head and said something to the effect of, "I'm going to put an end to me and you." [redacted] said she was outside at this point and Guenther shut the front door. Dep. Baker said that [redacted] told him that she hid in bushes that were near the house and waited for the deputies to arrive.

Deputy Baker related that he did not know if the deputies were able to make contact with the victim prior to the incident. He said that when he arrived on scene, [redacted] was in the back seat of a radio car. Dep. Baker said after videotaping [redacted] he helped secure the area. Deputy Baker said that he believed that his partner, Deputy Arceneaux, performed a Gun Shot Residue (GSR) test on Guenther. Guenther was then transported to Antelope Valley Hospital via ambulance.

> **IAB Note:** For further information regarding Deputy Baker's statements made during his interview with Homicide investigators, refer to their report, pages 29-31, which is included in this investigation as **Exhibit A.**

Deputy Arrica Arceneaux

On 04-26-2006, Homicide investigators Robert Kinney and Timothy Cain interviewed Deputy Arrica Arceneaux at a mobile command post, which was parked a short distance from the location of the incident. Also present during the interview were Internal Affairs investigators, Sergeant Clay Anderson and Sergeant Steven Flamm. The following is a summary based on Homicide investigators' interview, which was audio recorded, and their summary:

Deputy Arceneaux stated that she was assigned to Unit 261, Early Morning Shift, with her [redacted] Deputy Michael Baker, when the shift briefing had been "cut short,"

because of a domestic violence call in Elizabeth Lake. She said that she assigned herself and Baker as an assisting to that call via the mobile digital terminal (MDT) and began to respond to the area of the call. Dep. Arceneaux explained that they were normally a Palmdale City car; however, if a call requiring more than one unit goes out towards Elizabeth Lake, the Palmdale City cars will assist.

Deputy Arceneaux stated that the call involved a spousal assault that had just occurred, and an update of the call stated that the suspect had a rifle or other weapons with him. She related that the call was further updated, stating that the informant, Victim [redacted], was hiding in the bushes and that the suspect, Kurt Guenther, had pointed a gun at his head.

Deputy Arceneaux stated that while enroute, they were advised to meet at Elizabeth Lake Road and Ranch Drive, prior to rolling in. Dep. Aceneaux stated when they arrived, there were four other patrol units already there. She stated that upon their arrival, [redacted] briefed the deputies as to how they were going to handle the call and whom would be assigned to what responsibility. Deputy Arceneaux stated that in addition to [redacted] the other deputies included Deputies Wilson, Fender, and [redacted] She stated that she and Baker were assigned to take the rear of the location, and Baker was to deploy the AR-15. Dep. Arceneaux related that an arrest team was formed, and one deputy was designated to make contact with the victim.

Deputy Arceneaux stated that she and Baker drove to the rear of the location via the north/south street just east of the location. She stated they exited their vehicle, deployed the AR-15, and took cover behind a cinder block wall. After arriving at the location, Baker communicated with other units on a tactical frequency that they were in place. Dep. Arceneaux stated it was very dark at the location and someone, possibly Deputy Wilson, signaled with a flashlight to assure them (Arceneaux and Baker) that they were at the rear of the correct location.

Once in place, Deputy Arceneaux said her responsibility was to watch the upstairs windows, and Baker was to observe the doors and windows on the first floor. She related that during their duration at the location, they did not see any movement at the rear of the residence. She further related she could not see the deputies that were in the front of the location.

Dep. Arceneaux stated that she heard someone, possibly [redacted] give the command, "Get down! Get down! Put the gun down!" She said shortly after that, she heard four to five gunshots. She stated that during this time, she and Baker held their position to the rear of the location. Dep. Arceneaux stated that the shots sounded fast, but not in rapid succession. Shortly after hearing the gunshots, Dep. Arceneaux stated that she heard [redacted] advise that deputies had been involved in a shooting via Sheriff's radio. She also heard him give more commands, "Get Down," to someone (unknown).

At some point shortly after the gunfire, Dep. Arceneaux said that Baker inquired, via radio, if it was "Code 4" and if they were needed at the front of the location. Dep. Arceneaux said that they were instructed to maintain their location, but a short time later they were instructed to go to the front of the residence. She said that she and Baker went to the front of the location via the side yard, and at that point, checked on the condition of the victim, Victim [redacted] who was in the backseat of a marked Sheriffs patrol vehicle.

Dep. Arceneaux stated that Baker acquired a video camera from [redacted] patrol unit and interviewed [redacted] She related that the interview took place while [redacted] was seated in the backseat of the patrol car. Deputy Arceneaux said that she heard [redacted] tell Baker that she [redacted] and the suspect, Kurt Guenther, had arrived home around 1700 hours and consumed some alcohol. [redacted] said that at approximately 2100 hours, Guenther took an "Ambien," had one more beer, and then "snapped." [redacted] said that they began to argue about her deceased [redacted] and at some point Guenther told her leave.

Dep. Arceneaux stated that [redacted] said that she packed her things in a small bag, which Guenther subsequently threw down the stairs. Guenther then grabbed [redacted] and pulled her towards the front door. Dep. Arceneaux said that during her story, [redacted] stated that she lived at Guenther's house part of the week, and the other part of the week she and Guenther stayed at the her house. She also stated she had most of her belongings at the Coolcrest Drive location, the location of the incident, since that is where they spent the majority of their time. [redacted] continued, stating the during the confrontation with Guenther, he put one hand around her neck. [redacted] stated that she was scared that Guenther was going to hurt her. Using her arms, [redacted] said that she broke free from Guenther; at which point, Guenther grabbed her wrist, causing minor injury. Guenther then walked her downstairs, using a tight grip on the victim's left wrist.

Dep. Arceneaux stated that at some point, [redacted] told Baker that Guenther had grabbed her cellular telephone and threw it to the ground, breaking it. [redacted] stated that at that point, she exited the house taking a cordless telephone and dialing 911. Dep. Arceneaux said that [redacted] told them that when she was outside, she looked back at Guenther, who said, "I will do away with you and me." [redacted] related that at the time Guenther said it, he was holding a gun to the temple of his head.

Dep. Arceneaux stated that [redacted] told Baker that she was scared, because Guenther had the gun in his hand and she knew that he had other guns inside the house. [redacted] said she ran and hid in some bushes outside, then called 911.

Dep. Arceneaux stated that [redacted] related that she and Guenther have had a prior domestic violence incident, but it was never reported.

Deputy Arceneaux stated that she performed a Gun Shot Residue (GSR) test on Kurt Guenther, while he was in the ambulance. She subsequently packaged the GSR kit and turned it over to personnel from the Crime Lab.

IAB Note: For further information regarding Deputy Arceneaux's statements made during her interview with Homicide investigators, refer to their report, which is included in this investigation as **Exhibit A** pages 31-34.

IAB Note: The Gun Shot Residue (GSR) test was accepted by Crime Lab personnel and Lab Receipt #J787842 was issued. Refer to **Exhibit A** of this investigation for the test results.

***Ms.* [redacted]**

Ms. [redacted] was interviewed at 0436 hours on April 26, 2006, by Homicide Detective Paul Fournier. Also present during the interview were Deputy District Attorney Tal Kahana, District Attorney Investigator [redacted] and Sheriff Department's Internal Affairs Sergeants Clay Anderson and Steve Flamm. The following is a summary of Ms. [redacted] statements taken directly out of the Homicide investigation:

IAB Note: Ms. [redacted] statements are contained within the Homicide report, **Exhibit A, pages 38 & 39.**

[redacted] said she and the suspect have been [redacted] in December of 2004. She said although she has her own apartment, she usually sleeps over the suspect's house every night.

On the evening of the shooting, she arrived at his house at approximately 5:45 p.m. No one other than the suspect was there. She said the suspect began drinking Sierra Nevada Ale at 7:30 p.m. She believes he had four to five 12 ounce bottles. She said he typically does not drink that many beers. Although she did not actually see him, [redacted] believes that Guenther also took one of her "Ambien" tablets. [redacted] said she is under a doctors care for depression and Ambien is one of the pills she has been prescribed to help her sleep. She explained that her [redacted] had died from an accidental overdose in May of 2005.

At some point during the evening, [redacted] telephoned her. The [redacted] asked [redacted] why she was with the suspect. [redacted] explained that the suspect had physically assaulted her twice in the past, as he is very jealous and has anger problems. [redacted] is aware of those incidents and as a result, does not like the suspect. [redacted] said she never reported the incidents because the suspect promised to seek counseling.

Guenther overheard the conversation and became angry. She and the suspect began arguing in the upstairs bedroom. The suspect told her to leave, so she began packing her clothes. The suspect began throwing her clothes down the stairs. He also threw her cell phone, causing it to break. He then grabbed her by her throat. After that, he grabbed her by her neck and shoulders and forced her down the

stairs. [redacted] described it as he "pushed me" and "helped me vigorously" down the stairs. When they were near the bottom of the stairs, she fell. When specifically asked whether she fell or was pushed, she said the suspect "shoved me down." [redacted] does not know if she hit the railing or the stairs, but said she injured her left side when she fell. She said that she currently had a hard time breathing and that it was "painful."

The suspect then chased after her so she ran out of the house. Prior to leaving, [redacted] was able to grab the cordless phone out of the house. Once outside the house, [redacted] said she dialed 9-1-1. She said the reason she called was because Guenther had threatened her. [redacted] said she could not remember the specific threats he was making, but said it scared her enough to dial 9-1-1. She later remembered telling the operator that the suspect was trying to kill her. The 9-1-1 operator told her to wait outside until deputies arrived.

The suspect came outside with his gun. While standing on the steps he placed the gun to his head and said, "I'm just gonna do it!" [redacted] said that Guenther has threatened to kill himself before, but to her knowledge he has never actually tried to do so. Fearing that he was serious this time, she told the operator what he was threatening to do. [redacted] said she has seen the gun before and knows it belongs to the suspect.

The operator advised [redacted] to either go to a neighbor's house or hide in the bushes until deputies got there. [redacted] said she did not remember if the suspect pointed the gun at her. [redacted] said she went to the end of the block to wait for the deputies. While she was waiting outside, she got disconnected from the operator.

When she did not see the deputies, she decided to go back inside the residence. When asked why she decided to go back, she replied that she knew the suspect would have calmed down by then. She knocked on the front door and he let her in. She saw that he had indeed calmed down, so she re-dialed 9-1-1 to let the deputies know she was alright. While she was on the phone, she saw that the deputies were outside of the house. Meanwhile, the suspect had gone back upstairs.

The deputies at the scene and the operator told her to go outside. [redacted] tried to go through the side french doors but could not open it because it had a dead bolt lock which she did not have a key for. She then tried to go through the front door but could not open it because there was a sweater wedged underneath it.

The next thing [redacted] remembers is being in the dining room, still on the phone with deputies. She then got the key to the french doors and started walking towards it to exit the house. She remembers hearing a lot of yelling from the deputies who were outside of the house. She however could not hear anything specific. She then heard gunshots and saw the suspect lying on the floor at the front door entry way. She was surprised to see him there because she never saw or heard him come down

the stairs. [redacted] said that she never saw the deputies or suspect fire their weapons and was still unclear about what happened.

She walked over to the suspect and yelled to the deputies, "Where is he shot?" A deputy came over, grabbed her and took her out of the house. Paramedics arrived shortly after and treated her at the scene. Paramedics then advised her to seek further medical treatment after being interviewed by deputies.

[redacted] said she could not remember many specifics about the incident because she had taken one of her Ambien pills 30 minutes before she dialed 9-1-1. The interview was concluded and she was advised her to seek further medical treatment.

SUSPECT STATEMENT:

Mr. Kurt Guenther

Mr. Kurt Guenther was interviewed at 0825 hours the morning after the incident by Homicide Detectives Richard Tomlin and Paul Fournier. The following is a summary of Mr. Guenther's statements taken directly from the Homicide investigation:

IAB Note: Mr. Guenther's statements are contained within the Homicide report, **Exhibit A, pages 43 & 44**.

Guenther is employed as an engineer for [redacted] He has been [redacted] for the past three years. They have lived together for the past two and one half years. On May 17, 2005, [redacted] was found dead of an overdose. [redacted] became extremely distraught and suicidal since the event. She is under a Psychiatrist's care and on various medications.

Guenther said he has also become depressed being in the company of [redacted] saying "It's contagious". He said he has experienced insomnia since last May and often medicates himself with [redacted] Ambien and Ativan. When he is unable to get pills from [redacted] he uses an over the counter sleep aid, Unisom.

On April 25, 2006, Guenther arrived home from work at approximately 5:00 p.m. [redacted] arrived home at approximately 1730 hours. She had gotten into a car accident and was extremely upset. Guenther was able to repair some of the damage to her car but she remained agitated. Guenther said he made her dinner and did the dishes in hopes she would calm down. At approximately 7:30 p.m., Guenther began drinking Sierra Nevada Ale. He drank five or six 12 ounce bottles.

At approximately 8:30 p.m., Guenther took one half of an Ambien pill and a whole Ativan pill that was prescribed to [redacted] He became tired. [redacted] meanwhile became engaged in a telephone conversation with her [redacted] and they

began arguing. Guenther now became agitated and told [redacted] to leave. When she refused, he grabbed her by the arm and forced her down the stairs. He then pushed her outside and locked the door.

Guenther said he went back upstairs, undressed and went to sleep. The next thing he remembered was a loud banging sound like someone was trying to kick down the front door. He grabbed his 9mm handgun from under his bed and went downstairs to investigate. He said he did not know who was on the other side of the door. When he reached the bottom step, the front door flew open. He saw approximately ten Sheriff Deputies standing outside his home. He was shot in the arm by one of the deputies and he ultimately dropped to the floor. Guenther did not discharge his firearm.

Guenther demonstrated to Investigators that at no time did he put a gun to his own head or point a gun at the deputies. Investigators had not yet mentioned [redacted] claims that he had put a gun to his head saying he didn't want to live anymore. When told what [redacted] said, Guenther responded, "I don't remember that. When I take Ambien I get like semi-conscious."

Investigators asked Guenther if he recalled saying anything to the deputies after the shooting. He said, "Yes, 'Kill me.'" He explained that at that moment he realized that his life was in ruin and that he would potentially lose his job and his home. He said however, he is not suicidal.

Investigators asked Guenther about [redacted] claims that he threw her clothes down the stairs and tossed her cell phone. He did not recall that but said he was "pretty agitated." Investigators then asked if he grabbed [redacted] by her neck. He said "I don't think so, I probably pushed her."

Guenther said the only other time he had ever put his hands on [redacted] was approximately 8 months ago. He described the assault as a wrestling match and said no police reports had been filed.

Investigators asked Guenther if he recalled letting [redacted] back inside the house after throwing her out. He did not remember, but said it could have happened. Investigators told Guenther about Deputy Fender's claim that he pointed his gun at him when the front door swung open. Investigators then asked Guenther if he raised his gun. He said "I don't think so. There was no way I was going to shoot."

Guenther told Investigators about a previous incident he had while taking Ambien. He said during the night he got up and ate a half gallon of ice cream. He did not realize he did this until he got up the following morning and saw the empty container.